

A Brief
DISCOURSE
Of the Happy
UNION
Of the
KINGDOMS
Of
SCOTLAND and ENGLAND,
VVith
ertain ARTICLES concerning the same

Dedicated to His MAJESTY:

the Right Honourable Sir *Francis Bacon*, Kt: of *Verulam*, Viscount of *St Alban*, and Lord High Chancellor of *England*.

LONDON,

A
Brief

DISCOURSE OF THE UNION

Of the Kingdoms

O F

SCOTLAND and ENGLAND

Containing in Ten Internal Points, there-
anent as follows,

1. SEveral Parliaments. 2. Several Con-
sels of Estate. 3. Several Officers
of the Crown 4. Several Nobilities
5. Several Laws. 6. Several Courts of Justice
Trials, and Proceffes. 7. Several Receipts &
Expences. 8. Several Admiralties & Merchants
Privileges. 9. Several Freedoms and Liberties.
10. Several Taxes and Imposts.

In these points of the straight and more

ward Union there will intervene an
 principal Difficulty and Impediment grow-
 ing from that Root which Aristotle in his
 Politicks maketh to be the Root of all Dis-
 sension and Dissention in Commonwealths
 and that is Equality and Inequality. For
 the Realm of Scotland is now an ancient
 and noble Realm, substantive of it self. But
 when this Island shall be made Britain, then
 Scotland is no more to be considered as
 Scotland, but as a part of Britain: No more
 than England is to be considered as Eng-
 land, but as a part likewise of Britain, and
 consequently neither of these are to be con-
 sidered as things entire of themselves, but
 in the proportion they bear to the whole.
 And therefore let us imagine (*Nam id mente
 assumis, quod actu non possumus*) that Bri-
 tain had never been divided, but had ever
 been one Kingdome, then that part of Soil
 or Territory, which is comprehended un-
 der the Name of Scotland, is in quantity,
 as I heard it esteemed, how truly I know
 not) not past a third part of Britain: and
 that part of Soil or Territory which is com-
 prehended under the Name of England, is
 two parts of Britain, leaving to speak of
 some difference of wealth or population. &c.

speaking only of quantitie So then if
 Example Scotland should bring to Parli-
 aments much Nobility as England, then
 third Part should contravall two Part
*Nam si inequalibus equalia addes omnia
 inequalia.* And this I protest before
 G O D and your Majesty, I do speak not
 as a Man born in England, but as a Man
 born in Britain. And therefore to de-
 scend to the Particulars

For the *Parliament*, the Consideration
 of that Point will fall into four *Questions*

1. The first, what Portion shal be kept
 between the *Votes of England*, and the
Votes of Scotland.

2. The second touching the manner of
Proposition or Possessing of the *Parliament*
 of Causes there to be handled; which in
 England is used to be done immediatly
 by any *Member of Parliament*, or by the
Prolocutor, and in Scotland used to be
 done immediatly by the *Lords of Articles*
 whereof the one Form seemeth to have more
Liberty, and the other more *Gravity* and
Maturity, and therefore the Question will
 be, whether of these shal yield to other, or
 whether there should not be a Mixture of
 both, by some Commissions precedent to

if every Parliament in the nature of *Corps* of the Articles, and yet no excluding the liberty of propounding in full Parliament afterwards.

3. The third, touching the Orders of Parliament, how they may be compounded and the best of either taken.

4. The Fourth, how those which by *Inheritance* or otherwise, have Offices of Honour & Ceremony in both the Parliaments, as the Lord Steward with us, &c. May be satisfied, and Duplicity accommodated.

For the Councils of Estate, while the Kingdoms stand divided, it should seem necessary to continue several Councils, but if your Majesty should proceed to a strict Union, then howsoever your Majesty may establish some Provincial Councils in Scotland as there is here in York, and in the Marches of Wales, yet the question will be, whether it will not be more convenient for your Majesty, to have but one Principal Council about your Person, whereof the Principal Officers of the Crown of Scotland may be for Dignity's sake, howsoever their abiding & remaining may be as your Majesty shall employ their Service, but this Point

Point belongeth meerlie and whollie to
 Your Majesties Royal Will and Pleasure

For the Officers of the Crown, the con-
 sideration thereof will fall into these Que-
 stions.

First in regard of the Latitude of your
 Kingdom, and the Distance or Place, whe-
 ther it will not be matter of necessitie to
 continue the severall Officers, because of the
 Impossibility for the service to be perform-
 ed by one,

The second admitting the duplicity of
 Officers should be contained yet whether
 there should not be a difference that one
 should be the Principall Officer, & the other
 to be but special & subaltern. As for Ex-
 ample one to be Chancellor of Britain, &
 the other to be Chancellor with some spe-
 cial Addition, as here of the Dutchy, &c.

The third, if no such speciality or infe-
 riority be thought fit, then whether both
 Officers should not have the Title & the
 Name of the whole Island and Precincts
 As the Lord Chancellor of England to be
 Lord Chancellor of Britain; and the Lord
 Chancellor of Scotland, to be Lord Chancel-
 lor of Britain, but with several Provisoos
 that they shal not intromit themselves, but

lie to within their several Precincts.

asure For the Nobilities the consideration
con. hereof will fall into these *Questions*.

Que. The first of their *Votes in Parliament*
(which was touched before) what proportion
you on they shal bear to the Nobility of *Eng-*
wheland, wherein if the proportion which
e shall be thought fit be not full, yet your
f the Majesty may out of your prerogative supply
form for although you cannot make fewer of
Scotland, yet you may make more of *Eng-*
y of land.

the The second is touching the Place and
on Precedence, wherein to marshal them ac-
the cording to the Precedence of *England* in
Ex your Stile, and according to the Nobility
n, & *Ireland*, that is all *English* Earls First,
sp and then *Scotish* will be thought unequal for
Scotland, To marshal them according to
nfe antiquity, will be thought unequal for
both *England*. Because I hear the Nobility is
the generallie more ancient. And therefore
ers the question will be, whether the indiffer-
o be the way were not to take them *interchang-*
ably, as for Example first the ancient Earl
nce of *England*, and then the ancient Earl of
oes *Scotland*, and so *Alternis Vicibus*.

but For the Laws to make an intire and per .

est *Union*, it is a matter of great difficulty and length, both in the *Collecting* of them, and in the passing of them. For first, as to the *Collecting* of them, here must be made by the *Lawyers* of either *Nation*, a *Digest* under *Titles* of their several *Laws & Customs*, as well *Common Laws*, as *Statutes*, that they may be collated and compared, and that the diversities may appear, and be discerned of. And for the passing of them we see by experience, that *Patriam* is dear to all Men, and that Men are bred and nourished up in the *Love* of it, and therefore how harsh *Changes* and *Innovations* are. And we see likewise what *Disputation & Argument* the *Alteration* of some *Law* doth cause to bring forth, how much more the alteration of the whole *Corps* of the *Laws*? Therefore the first *Question* will be, whether it be not good to proceed by *Parts*, and to take that that is most necessarie, and leave the rest to *Time*? The *Parts* therefore or *Subjects* of *Law*, are for this purpose fittest distributed according to that ordinary *Division* of *Criminal* and *Civil*, and those of *Criminal Causes*, into *Capital* and *Penal*.
 The second *Question* therefore is, allow

ing the general *Union* of Laws to be too
great a Work to embrace, whether it were
or convenient that Cases Capital were
the same in both Nations. I say, the
Cases, I do not speak of the Proceedings or
Tryals, that is to say, whether the same
Offences were not fit to be made Treason
or Felony in both Places.

The third Question is, whether Cases
Penal, though not Capital, yet if they con-
cern the Publick State, or otherwise the
Discipline of Manners, were not fit like-
wise to be brought into one Degree, as the
Case of Misdemeanor of Treason: as the Case
of *Premunire* the Case of Fugitive: the Case
of Incest, the Case of Simony, and the rest.

But the Question that is more urgent
than any of these is, whether these cases at
the least be they of anie higher or interi-
our degree, wherein the Fact committed,
or Act done in Scotland, may prejudice
the State and Subjects of England, or con-
verso, are not to be reduced into one U-
niformity of Law and Punishment, as
for Example, a Perjurie committed in a
Court of Justice in Scotland, cannot be pre-
judicial in England, because Depositions
taken in Scotland cannot be produced and
eviden

used here in England. But a Forgery of a Deed in Scotland. I mean with a false Date of England, may be used and given in Evidence in England. So likewise the depopulating of a Town in Scotland, doth not directly prejudice the State of England: But if an English Merchant shal carrie Silver and Gold into Scotland (as he may) and thence Transport it into Foreign parts this prejudice the State of England, and may be an Evasion to all the Laws of England, ordained in that Case: And therefore had need to be bridled with as severe a Law in Scotland as it were in England.

Of this kind there are manie Laws.

The Law of the 50th of Rich the 2. of going over without License, if there be not the like Law in Scotland, will be frustrated and evaded: For anie Subject of England may go first into Scotland, and thence into Foreign parts.

So the Laws Prohibiting Transportation of sundrie Commodities, as Gold, Silver, Ordinance, Artillery, Corn, &c. If there be not a Correspondence of Laws in Scotland will in the like manner be delud-

of and frustrate: For anie English Merchant or Subject may carrie such Commodities ~~first~~ into Scotland, as well as he may carrie them from port to port in England. And out of Scotland, into Foreign Parts, without anie peril of Law.

So Libels may be devised and written in Scotland, and published and scattered in England.

Treasons may be Plotted in Scotland and Executed in England.

And so in manie other cases, if there be not the like severity of Laws in Scotland, to restrain Offences, that there is in England; (Whereof we are here ignorant whether there be or no) it will be a gap or stop even for English Subjects to escape or avoid the Laws of England.

But for Treasons the best is that by the Statute of 26. K. H. the 8 Cap. 13 any Treason committed in Scotland, may be proceeded with in England as well as Treasons committed in France, Rome, or elsewhere.

For Courts of Justice, Tryals, Process, and other Administration of Laws to make anie Alteration in either Nation, it will be a thing so new and unwonted to either

People; That it may be doubted it will make the *Administration of Justice* (which of all other things ought to be known and certain as the beaten way) to become intricate and uncertain. And besides, I do not see that the severallie of *Administration of Justice*, though it be by Court Sovereign or last resort, mean without Appeal or Error any Impediment at all to the Union of a Kingdom, as we see by experience in the severall Courts of Parliament in the Kingdom of France; And have been always of Opinion, that the Subjects of England do already fetch Justice somewhat far off, more than in anie Nation that I know, the largeness of the Kingdom considered, though it be holden in some part by the Circuits of the Judges. And the two Councils at York, and the Marches of Wales established.

But it may be Question whether as *commune Vinculum* or the Justice of both Nations, your Majesty should not erect some Court about your Person in the nature of the Grand Council of France; To which Court you might by way of *Evocation* draw Causes from the ordinarie Judges of both Nations; For so doth the French King

King from all the Courts of Parliament in France; many of which are more remote from Paris than any part of Scotland is from London.

For Receipts and Finances, I see no Question will arise, in regard it will be matter of Necessity to establish in Scotland a Receipt of Treasure, for Payments, and Exogations to be made in those Parts. And for the Treasure of Spare, in either Receipts, the Custodies thereof may well be several, considering by your Majesties Commandment, they may at all times be removed or disposed according to your Majesties Occasions.

For the Patrimonies of both Crowns, I see no Question will arise, except your Majesty would be pleased to make one compounded Annexation, for an inseparable Patrimony to the Crown out of the Lands of both Nations. And so the like for the Principalitie of Britain, and for other Apenages of the rest of your Children erecting likewise such Duchys & Honours compounded of the Possessions of both Nations as shall be thought fit.

For Admiralty or Navy, I see no great Question will arise: For I see no Incon-

venience for Your Majesty to continue Shipping in Scotland. And for the Jurisdiction of the Admiralties; and the Profits and Casualties of them, they will be respective unto the Coasts, over against which the Seas ly, and are situated, as it is here with the Admiralties of England.

And for Merchandising, it may be a Question, whether that the Companies of the Merchant Adventurers, of the Turkey Merchants, and the Muscovy Merchants (if they shall be continued) should not be compounded of Merchants of both Nations, English and Scottish. For to leave Trade free in the one Nation, and to have it restrained in the other, may percase breed some Inconvenience.

For Freedoms and Liberties, the Charters of both Nations may be revived: And of such Liberties as are agreeable and convenient for the Subjects and People of both Nations, one great Charter may be made and confirmed to the Subjects of Britain and those Liberties which are peculiar or proper to either Nation, to stand as the State as they do.

But for Imposts and Customs, it will

a great Question how to accommodat them
and reconcile them: For, if they be much
easier in *Scotland* than they be here in *Eng-
land* (which is a thing I know not) then
this Inconvenience will follow, That the
Merchants of England may unlade in the
Ports of Scotland. and this *Kingdom* to be
served from thence. and Your *Majestys Cus-
toms* abated.

And for the Question. whether the
Scotish Merchants should pay *Strangers
Custom in England*, that resteth upon the
Point of Naturalization, which I touched
before.

Thus have I made Your Majesty a brief
and naked Memorial of Articles and Points
of this great Cause, which may serve on-
ly to excite and stir up your Majestys Roy-
al Judgment, and the Judgment of Wiser
Men, whom you will be pleased to call
upon it; Wherein I will not presume to per-
suade or dissuade any thing; No to in-
terpose mine own Opinion, but do expect
direction from your *Majesties Royal Directi-
ons*, unto the which I shall ever submit
my Judgment, and apply my Travail:
And

(16)
And I most humbly pray your Majesty
in this which is done, to pardon my Er-
rors, and to cover them with my good
Intention and Meaning, and Desire I have
to do your Majesty Service, and to acquit
the Trust that was reposed in me, and
in me your Majesties benigne and gra-
cious Acceptation.

FINIS.